

### **REMARKS/ARGUMENTS**

Claims 38-64 are pending in the present application. Claims 38-51 are withdrawn and claims 52-64 stand rejected. Claims 52, 54 and 55 have been amended. No new matter has been entered. Claim 53 has been canceled without prejudice or disclaimer of the subject matter therein or equivalents thereof. This amendment is in response to the Office Action dated December 23, 2009 and further incorporates the amendments submitted in a Supplemental Amendment filed on December 18, 2009 but which were not examined or shown as entered at the time the current Office Action was issued.

#### **I. STATUS OF THE CLAIMS**

Claims 52, 54, 57-63 are rejected under 35 U.S.C. § 102(b), (hereinafter, "Section 102(b)"), as being anticipated by Lindstrom et al. (U.S. Pat. 6,299,108 B1, hereinafter "Lindstrom").

Claims 53-58 and 64 are rejected under 35 U.S.C. § 103(a), (hereinafter, "Section 103(a)"), as being unpatentable over Lindstrom in view of Baston et al. (U.S. Pat. 4,260,121, hereinafter "Baston").

Applicant respectfully traverses all rejections and requests reconsideration of the pending claims for at least the following reasons.

#### **A. REJECTION UNDER SECTION 102(b), LINDSTROM**

Claims 52, 54, 57-63 are rejected under Section 102(b) as being anticipated by

Lindstrom. Applicant respectfully traverses this rejection. In the interests of moving along examination, independent claim 52, upon which claims 54, 57-63 all depend from, has been amended to claim an embodiment of the present invention, reciting in part that

“the position sensors have an angle position transmitter on the drive unit, and angle position transmitters, which operate as asymmetry transmitters, at the ends of the drive trains”.

Support for the claim is provided for throughout the Specification and particularly in par. [0013] of the Applicant's publication of application.

As required to anticipate claim 52, Lindstrom must teach each and every element of the claim. However, the Action admittedly confirms that Lindstrom does not teach of at least the limitations of “an angle position transmitter on the drive unit”. Therefore, Lindstrom fails to disclose, teach or suggest all the claimed limitations of amended claim 52 as required to anticipate the claim. As such, claim 52 is believed novel and allowable over Lindstrom.

As claims 54 and 57-63 include all the limitations of their base claim 52, these dependent claims are believed allowable over Lindstrom for at least the same reasons as amended claim 52. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 52, 54 and 57-63 under Section 102(b).

#### B. REJECTION UNDER SECTION 103(a), LINSTROM IN VIEW OF BASTON

Claims 53-58 and 64 are rejected under Section 103(a) as being unpatentable over Lindstrom in view of Baston. As discussed above, independent claim 52, upon which dependent claims 54-58 and 64 depend from, recites in part “the position sensors have an angle position transmitter on the drive unit, and angle position transmitters, which operate as asymmetry transmitters, at the ends of the drive trains”; “measuring signals from at least two

position sensors and calculating at least one reference variable from the measured signals”, and that “by comparison of the at least one reference variable which represents a load in the drive trains with a corresponding threshold value which is predetermined from a maximum permissible load, produces a control signal for monitored limiting of a power supply to the drive unit in the sense of limiting a drive power that is supplied.” As required for a showing of obviousness, all claim elements must be shown by the combination of Lindstrom and Baston.

As discussed above, Lindstrom fails to disclose, teach or suggest all claimed limitations of amended claim 52. Neither does Baston provide for the deficiencies of Lindstrom. Claim 52 as amended, recites the limitation of “angle position transmitters, which operate as asymmetry transmitters, *at the ends of the drive trains...*” (emphasis added). In the Action, Baston is cited to show a “motor 23” is provided with “probes 36, 37” as teaching “an angle position transmitter on the drive unit”. However, nowhere is there shown in Baston of angle position transmitters “at the ends of the drive trains”. Baston, at most, discloses two braking devices (25, 26) at the ends of the shafts (15, 17) (Fig. 1, col. 2, lines 11-13). Yet, there is no disclosure, teaching or suggestion of “angle position transmitters, which operate as asymmetry transmitters, at the ends of the drive trains”. Accordingly, claim 52 is believed patentable over Baston in combination with Lindstrom.

Further Lindstrom, as discussed above, clearly fails to disclose the required “angle position transmitter on the drive unit” and further, neither does it disclose, teach nor suggest the “angle position transmitters, which operate as asymmetry transmitters, at the ends of the drive trains”. Lindstrom at most only describes “rotary sensors 30” on the branching “transmission 12”. (Figs. 6-8, col. 3, lines 3-17). However, nowhere is there disclosed the underlying claimed angle position transmitters, one at each end of the drive trains.

For at least the foregoing reasons, amended claim 52 is believed patentable over Lindstrom in view of Baston, either alone or in combination, for not teaching the limitations of the claims. The claimed apparatus as recited in amended claim 52 has a fundamentally different structural arrangement from Lindstrom in view of Baston. These references further fail to teach of the claimed apparatus “measuring signals from at least two position sensors and calculating at least one reference variable from the measured signals”, and “the at least one reference variable which represents a load in the drive trains with a corresponding threshold value which is predetermined from a maximum permissible load, produces a control signal for monitored limiting of a power supply to the drive unit in the sense of limiting a drive power that is supplied.” Accordingly, it is believed that amended claim 52 is patentable over Lindstrom in view of Baston.

Claims 54-58 and 64, as dependent on claim 52, are believed allowable for the same reasons, since Lindstrom in light of Baston fail to teach or suggest ALL claim limitations as required to establish a prima facie case of obviousness. As noted, claim 53 has been canceled by the present amendment without prejudice or disclaimer of the subject matter therein or equivalents thereof. Applicant therefore respectfully requests withdrawal of the rejection of claims 54-58 and 64 under Section 103(a).

## CONCLUSION

In view of the foregoing, Applicant respectfully submits that all of the pending claims of the present application are now in condition for allowance. Reconsideration and allowance of the present application are therefore earnestly requested. Should the Examiner have any

questions regarding the above amendments, the Examiner is invited to telephone Applicant's representative at the number listed below.

Respectfully submitted,

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